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Executive Registry

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DCI/IC-75-0682
13 August 1975

MEMORANDUM FOR: Deputy to the DCI for the IC

SUBJECT : ~~"Secrecy"~~ Paper

1. ~~Attached is a proposed approach to the "secrecy"~~
problem assigned to you by the DCI following his discussion
with the PFIAB on 7 August.

2. This is a rough first cut at an approach, and as
the text indicates, ~~it will need to be fleshed out in~~
~~numerous places, probably by use of a task force.~~ No one
else has read this draft, so ~~it does not reflect any "consensus."~~

25X1 3. In [] view, during the discussion at the
PFIAB meeting, ~~the DCI seemed to favor an incremental approach~~
~~to the problem, while several PFIAB members came out in favor~~
~~of drastic change in the classification/compartment systems.~~

4. What I have sought to do is outline the approach,
fill in part of the text, and included samplings of the ideas
which I suggest that you discuss with the DCI to ascertain
whether this is the kind of a paper he had in mind.

[]
Major General, USAF (Ret.)
Chief, Coordination Staff, ICS

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Attachment:
as stated

MORI/CDF Pages 1 thru 9

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THE APPLICATION OF SECURITY CLASSIFICATIONS
AND COMPARTMENTATION IN INTELLIGENCE ACTIVITIES

PROBLEM

To assess the continued validity of the existing system of classification (as provided by E.O. 11652) and the compartmentation systems utilized by the U.S. Intelligence Community in view of the changing political and social U.S. attitudes toward secrecy in government, and to recommend such changes as the Director of Central Intelligence could sponsor.

BACKGROUND

1. This paper responds to a request made by the PFIAB at its 7 August 1975 meeting that the DCI address this problem at the next PFIAB meeting in October. PFIAB concerns relate to the recent spate of disclosures of sensitive intelligence information--as indicative that the current classification/compartmentation system is not working.

2. PFIAB expressions of a need for a new look at the classification/compartmentation picture relate to a widespread concern with "secrecy in government" reflected in numerous recent publications.*

FOUNDATION OF THE PRESENT SYSTEM: E.O. 11652

3. The opening three paragraphs of E.O. 11652, "Classification and Declassification of National Security Information and Material," dated 8 March 1972, present the philosophy of the existing system:

* In addition to magazine articles, newspaper columns and statements by Senators and Congressmen, three books which illustrate the kinds of criticisms being publicly expressed are:

Government Secrecy, Hearings before the Subcommittee on Intergovernmental Relations of the Committee on Government Operations, United States Senate, 93rd Congress, 2nd Session, on S.1520, S.1726, S.2451, S.2738, S.3393, and S.3399, May 22, 23, 29, 30, 31 and June 10, 1974 (908 pg.)

Secrecy and Foreign Policy, Edited by Thomas M. Franck and Edward Weisband, Oxford University Press, 1974 (453 pg.)

None of Your Business: Government Secrecy in America, Edited by Norman Dorsen and Stephen Gillers, Penguin Books, 1975

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"The interests of the United States and its citizens are best served by making information regarding the affairs of the Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act and in current public information policies of the Executive Branch.

"Within the Federal Government there is some official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our allies. To protect against actions hostile to the United States, of both an overt and covert nature, it is essential that such official information and material be given only limited dissemination.

"This official information or material, referred to as classified information or material in this order, is expressly exempted from public disclosure by Section 552(b)(1) of Title 5, United States Code. Wrongful disclosure of such information or material is recognized in the Federal Criminal Code as providing a basis for prosecution."

4. Definitions of security classification categories in E.O. 11652 are as follows:

Top Secret: "national security information or material which requires the highest degree of protection. The test for assigning "Top Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security."

(Among the examples the E.O. cites are "the compromise of complex cryptologic or communications intelligence systems; the revelation of sensitive intelligence operations...")

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Secret: "national security information or material which requires a substantial degree of protection. The test for assigning "Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security."

(Among the examples the E.O. cites are "revelation of significant intelligence operations...")

Confidential: "national security information or material which requires protection. The test for assigning "Confidential" classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security."

5. "National Security" in all of the foregoing definitions is used in the collective sense of "the national defense or foreign relations of the United States."

6. The special compartmentation systems which organizations of the Intelligence Community have used as tools to protect particularly important or particularly sensitive information by controlling its dissemination and access are based on two sources of authority:

a. The provision of the National Security Act of 1947 which charges the Director of Central Intelligence with the responsibility for protecting intelligence sources and methods (which is also reflected in NSCID No. 1), and

b. Section 9 of E.O. 11652 which provides:

"Special Departmental Arrangements. The originating Department or other appropriate authority may impose, in conformity with the provisions of this order, special requirements with respect to access, distribution and protection of classified information and material, including those which presently relate to communications intelligence, intelligence sources and methods and cryptography."

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DISCUSSION

7. Problems with the Security Classification System

a. While problems of security classification undoubtedly apply to various kinds of national security information or material other than those with which the Intelligence Community is concerned, this paper deals only with those which relate to intelligence and which, in some instances, are peculiar to intelligence--such as the protection of sensitive sources and methods.

b. Critics of classification, as used by intelligence organizations, cite the following:

(1) There are no objective standards to guide the classifiers and personal judgment plays too large a role. Overclassification tends to be the almost inevitable result.

(2) The system is not enforceable, as evidenced by numerous "unauthorized disclosures," a continuing inability to identify the sources of leaks, and a failure or inability to impose sanctions even if the source of the leak is identified.

(FLESH OUT WITH MORE CRITICISMS)

c. Supporters of the existing classification system emphasize:

(1) Despite its shortcomings, the present system imposes a sense of discipline, both on members of the Intelligence Community and on the recipients of the information.

(FLESH OUT WITH MORE DEFENSES)

8. Problems with the Compartmentation Systems

a. Critics of the existing systems of compartmentation cite that:

(1) Compartmentation is excessively used, with the result that often times those who require the information cannot have access.

(2) The unauthorized disclosure of even highly compartmented information demonstrates that rigidly applied "need to know" criteria does not prevent exposure of data the Intelligence Community considers particularly sensitive.

(FLESH OUT THE CRITICISMS)

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b. Supporters of the use of compartments to restrict dissemination and access to sensitive information argue:

(1) Protection of truly sensitive sources and methods--and the resultant information--is of such importance that it justifies the effort even though experience has shown this is no guarantee against exposure.

(2) Proper application of the "need to know" criteria can ensure that those who require the information will have access to it.

(FLESH OUT THE SUPPORTING ARGUMENTS)

9. Factors Considered in Developing Alternative Approaches

a. The requirement to protect sensitive intelligence sources and methods is both real and imperative--the problem is to assure that the classification/compartmentalization process is applied only to that which really needs to be, and truly must be, protected.

b. The cloak of classification developed over the past 30 years, however justified it may have been, needs adjustment to the realities of the mid-1970's world--but adjustment with which the Intelligence Community can function effectively. The "that's classified" admonition now carries less weight and is accorded less support than has been the case during the developmental period of the U.S. Intelligence Community. Questions as to "why" or "for what reason" need to be squarely faced.

c. Considerations of "need to know" must be addressed in terms of a deliberate balance between the requirements of sophisticated users of the intelligence product and careful examination of what intelligence sources and methods truly need protection.

d. The public's "right to know" has spokesmen who today are more persuasive in many instances than those who would defend a pervasive intelligence classification and compartmentalization structure.

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e. The present system of top secret-secret-confidential classifications is deeply ingrained in not only the Intelligence Community, but in the government as a whole as well, and any attempt to "tinker" with existing definitions probably would be unproductive.

f. There is need, however, for more definitive criteria for the application of classification categories. Present guidance allows too much leeway and depends more than it should on judgment factors which vary from one classifier to another. The factor of human judgment cannot be eliminated, but the uncertainty factor could be narrowed by guidance which is quite specific in nature.

g. "National security" as now defined in E.O. 11652 is not necessarily the only basis for the classification of official information. "National welfare" as influenced by intelligence on foreign energy developments, foreign resource use, changes in the world physical environment, etc. may also provide a basis for application of security classifications.

h. Whatever system of classification is applied by the Intelligence Community to its finished products must be one which the users of intelligence recognize as being useful, necessary and logical.

i. Nothing short of a basic overhaul of the compartmentation system, with its multiple use of codewords, is likely to satisfy the critics of the present system among the recipients of intelligence products.

j. Some statutory means of applying criminal sanctions to persons who are responsible for unauthorized disclosure of classified information would probably enhance the disciplinary effect of both classification and compartmentation systems.

(FLESH OUT WITH MORE FACTORS)

10. Action options

a. The classification/compartmentation problems now confronting the Intelligence Community can be addressed in terms of action options which are either incremental or major in scope. The following options are grouped accordingly. The basic tenet is that the Community is not in a position to "stand fast" on past and present procedures and practices. It must, in one way or another, reflect the changing U.S. concepts

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of "national interest" and "national security" or risk statutory or other reactions which might impose limitations or changes which the Community is better advised to accomplish on its own initiative.

b. Incremental options

(1) Without change in the existing E.O. 11652, the DCI could issue a new DCID providing specific guidance for the application of each of the existing security categories. Such a DCID would be as definitive as the current "state of the art" makes possible in listing those types of information to which a classification of top secret, secret or confidential applies. Wide dissemination of such a list of examples would provide better guidance than is now available to those intelligence officers who are authorized to classify materials information.

(2) The DCI could indicate a recognition of complaints which have been addressed to the current application of compartments to various kinds of intelligence information and intelligence projects by issuing a new DCID which would provide guidance as to the circumstances under which adoption of a compartmented approach is justified and list the criteria which should be applied in deciding whether or not compartmentation is required.

(3) The DCI could solicit active support from departmental secretaries who have intelligence responsibilities to lend impetus to his ongoing efforts to obtain statutory authorization for the application of criminal sanctions against personnel responsible for the unauthorized disclosure of classified intelligence information.

(FLESH OUT THE INCREMENTAL OPTIONS)

c. Options for major change

(1) Formulate a new approach to the application of codeword compartments which would eliminate the use of codewords on all finished intelligence products and depend on the classification of the paper itself to indicate the degree of sensitivity of the information. Codewords would still be used within the Intelligence Community on raw information reports and on draft papers to assist analysts who need to be aware of the source of particular information as a measure of the degree of credence which can be given to the data.

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(2) (This would be the new proposal on compartmentalization which is being developed by Robert Taylor, Executive Secretary of the USIB Security Committee.)

(3) Limit the use of compartment codewords only to operational aspects of particularly sensitive projects, and require DCI approval, with the advice of the USIB, for the establishment of any codeword compartmented access list.

(4) Delimit, by issuance of a new DCID, particular kinds of intelligence information or products to which no security classification is to be applied, e.g., information relating to developments in basic science.

(TO BE FLESHED OUT WITH OTHER OPTIONS)

11. Recommended DCI Course/Courses of Action

(TO BE DEVELOPED FROM CONSIDERATION OF THE VARIOUS ALTERNATIVES DESCRIBED IN PARAGRAPH 10.)

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